

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

DR DISTRIBUTORS, LLC,)	
Plaintiff,)	
)	
v.)	
)	
21 CENTURY SMOKING, INC., and)	No. 12 CV 50324
BRENT DUKE,)	Magistrate Judge Iain D. Johnston
Defendants,)	
)	
and)	
)	
21 CENTURY SMOKING, INC.,)	
Counterclaimant,)	
)	
v.)	
)	
DR DISTRIBUTORS, LLC, CB DISTRIBUTORS,)	
INC, and CARLOS BENGGOA,)	
Counterdefendants,)	

ORDER

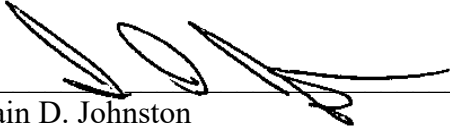
On January 19, 2021, the Court entered an order sanctioning defendants 21 Century Smoking, Inc. and Brent Duke along with two of their former counsel, Thomas Leavens and Peter Stamatis, for discovery violations. *See* Dkt. 439. On October 6, 2022, the Court calculated the monetary sanctions award to be \$2,526,744.46, and apportioned the award as follows: defendant Brent Duke to pay 50% and the former defense counsel to pay the remaining 50%, with former defense counsel Thomas Leavens paying 80% of the 50% and former defense counsel Peter Stamatis paying 20% of that 50%. *See* Dkt. 541. However, the Court did not at that time address the timing of the payment, in part because of the plaintiffs’ filing of a second motion for sanctions, *see* Dkt. 497 (superseded by Dkt. 545). Instead, it directed counsel to file position papers. *See* Dkts. 542, 543, 553. The issue of timing, as well as the second motion for sanctions, has remained under the Court’s advisement.

The plaintiffs have now filed a motion seeking an order from the Court requiring the immediate payment of the monetary sanctions awarded. Dkt. 571. The reason the plaintiffs give for the request for immediate payment is the imminent release from the trustee in Mr. Leavens’ bankruptcy proceeding of a report and recommendation that will lead to a distribution of bankruptcy estate assets to them, but also to 21 Century Smoking, Brent Duke, and defense counsel Kevin Salam. According to the plaintiffs, without an order that sanctions be paid now, they will be “unable to assert their right to attach these distributions” to the defendants and Mr. Salam. Motion [571] at 2.

The Court understands the plaintiffs' concerns about the anticipated distribution of bankruptcy assets. But the delay in ordering the payment of sanctions is due in part to the pending second motion for sanctions. However, in light of the plaintiffs' concerns, the expected release of the trustee's report and recommendation, and the potentially imminent distribution of estate assets, the Court grants the motion [571] in part as follows: the portion of the \$2,526,744.46 sanctions owed by 21 Century Smoking, Brent Duke, and Thomas Leavens is immediately due. This order does not address the timing of sanctions owed by Mr. Stamatis. An order addressing the issue of the timing of Mr. Stamatis' portion, as well as a memorandum explaining this order, shall be forthcoming.

Date: December 6, 2023

By:



Iain D. Johnston
United States District Judge